

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board

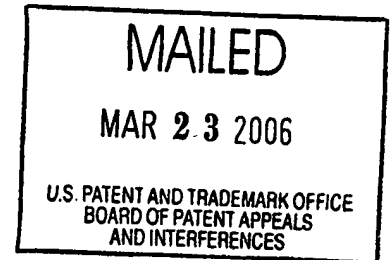
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL D. ZOECKLER

Appeal No. 2006-0065
Application 09/818,023

ON BRIEF



Before FRANKFORT, MCQUADE, and BAHR, Administrative Patent Judges.
FRANKFORT, Administrative Patent Judge.

REMAND TO THE EXAMINER

The above identified application is being remanded to the examiner under the authority of 37 CFR § 41.50(a)(1) for appropriate action with regard to the items listed below.

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In light of this remand, the oral hearing scheduled for 1:00 PM on March 21, 2006 has been vacated.

Claims 1 through 15 and 33 through 37 are pending in the application. Claims 16 through 32 and 38 through 41 have been canceled. On December 1, 2003 an examiner's answer maintaining rejections of claims 1 through 15 and 33 through 37 under 35 U.S.C. § 103(a) was mailed to the correspondence address of record in the application at that time. On March 16, 2004, beyond the two month period for response, appellant filed a reply brief. In a petition decision mailed August 18, 2004, it was indicated that the reply brief would not be entered or considered because it was not timely filed.

On September 24, 2004 appellant filed a paper styled as a "SUPPLEMENT TO APPEAL BRIEF" notifying the USPTO of a change in the real party in interest in the application. In a responsive paper mailed March 22, 2005, the examiner reiterated that the reply brief of March 16, 2004 was not entered and further denied entry of the "SUPPLEMENT TO APPEAL BRIEF" filed September 24, 2004.

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On March 31, 2005, appellant filed a "REQUEST FOR RECONSIDERATION" seeking review and reconsideration of the petition decision mailed August 18, 2004 and of the examiner's refusal to enter the "SUPPLEMENT TO APPEAL BRIEF" filed September 24, 2004. To date, we find no response on the record concerning appellant's "REQUEST FOR RECONSIDERATION."

Accordingly, we remand this application to the examiner for action on the "REQUEST FOR RECONSIDERATION" and for a final determination on the status of both the reply brief and the "SUPPLEMENT TO APPEAL BRIEF," which were previously denied entry.


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This application, by virtue of its "special" status, requires immediate action, see MPEP § 708.01 (item D), Eighth Edition, Rev. 3, August 2005.

REMANDED


CHARLES E. FRANKFORT)
Administrative Patent Judge)


JOHN P. MCQUADE)
Administrative Patent Judge)


JENNIFER D. BAHR)
Administrative Patent Judge)

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